

REMARKS

The application has been amended. Claim 1 has been amended to incorporate the limitations of Claim 2. Claim 2 and withdrawn Claims 10-11 and 20-24 have been cancelled. No new matter has been added. Reconsideration is respectfully requested.

Independent Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,142,341 to Uematsu in view of U.S. Patent Application Publication No. 2002/0094415 to Jud. In view of the amendment and remarks presented herein, this determination is respectfully traversed.

Amended Claim 1 discloses a spout to be sealed in a bag, and having two opposite sealing sides, each sealing side having a sealing surface, wherein each sealing surface has a rough surface structure with the surface roughness value between 20 and 40 in accordance with VDI Richtlinie 3400. The provision of such rough surface unexpectedly improves the sealing between the spout and the bag.

Applicant agrees with the acknowledgement by the Examiner that Uematsu fails to disclose that its sealing surfaces may be provided with a rough surface structure. The Examiner relies on paragraph [0009] of Jud for allegedly overcoming the deficiencies of Uematsu. However, Jud fails to teach two opposing sealing sides each having a rough surface with a surface roughness value between 20 and 40 in accordance with VDI Richtlinie 3400.

Jud relates to planar lids made of film material, in particular a sealing layer and a substrate layer, which are sealed on a ring-shaped shoulder of a deep drawn or stretch container. Jud specifically teaches that a rough surface is to be applied to only one surface or substrate of a lid to prevent lids from sticking together when the lids are separated or unstacked by a packaging machine. (Jud, paragraph [0003]). Jud further teaches that embossing or applying a rough surface to the opposed lid surface is to be strictly avoided as such embossing thwarts the very purpose, intent and function of Jud, i.e., providing this opposed surface within printed images. Contrary to Claim 1 of Applicant's invention, Jud teaches a rough surface having only one rough surface structure and teaches away from providing two rough surface structures. Accordingly, Jud fails to teach or suggest two opposing sealing sides each having a rough surface and, more particularly, a surface roughness value between 20 and 40, as provided in amended Claim 1 of Applicant's invention.

Thus, it is respectfully submitted that the claims would not have been obvious to one of ordinary skill in the art at the time the invention was made in view of the cited references.

Conclusion

It is, therefore, respectfully submitted that amended Claim 1 defines patentably over the references of record. Accordingly, the application, including Claims 1, 3-9, and 30-31, is believed to be in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,



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